

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

TYLER DIVISION

KEVIN JAMES KOHUTE

§

VS.

§

CIVIL ACTION NO. 6:18cv231

RANDALL ROGERS, ET AL.

§

ORDER OF DISMISSAL

Plaintiff Kevin Kohute, a former prisoner confined within the Smith County Jail proceeding *pro se* and *in forma pauperis*, filed this section 1983 proceeding. The complaint was referred to United States Magistrate Judge, the Honorable K. Nicole Mitchell, for findings of fact, conclusions of law, and recommendations for the disposition of the case.

On August 28, 2020, Judge Mitchell issued a Report, (Dkt. #16), recommending that Plaintiff's case be dismissed, without prejudice, for Plaintiff's failure to prosecute. A copy of this Report was sent to Plaintiff at his last-known address. However, to date, no objections have been filed and Plaintiff has not communicated with the Court since July 2018.

Because objections to Judge Mitchell's Report have not been filed, Plaintiff is barred from *de novo* review by the District Judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to proposed factual findings and legal conclusions accepted and adopted by the district court. *Douglass v. United Services Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the Court has determined that the Report of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918 (1989) (holding


that where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law."). Accordingly, it is

ORDERED that the Report of the United States Magistrate Judge, (Dkt. #16), is **ADOPTED** as the opinion of the Court. Further, it is

ORDERED that the above-styled civil rights proceeding is **DISMISSED**, without prejudice, for Plaintiff's failure to prosecute. Finally, it is

ORDERED that any and all motions which may be pending in this civil action are hereby **DENIED** as **MOOT**.

SIGNED this the 16 day of **September, 2020**.


Thad Heartfield
United States District Judge